

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of)
Kenneth F. Gay, et al.)
Serial No.: 09/954,464) Examiner K. Tran
Filed: September 14, 2001) Group Art Unit 3634
For: Open Frame Shelf Assembly)

COMMISSIONER OF PATENTS
ALEXANDRIA, VA 22313-1450

SUPPLEMENTAL DECLARATION UNDER 37 CFR § 1.132

Kenneth R. Gay declares as follows:

- 1) That he is an inventor named in the above-identified application for United States patent;
- 2) That he is an employee of the assignee of the instant invention, K'EFFS, Inc. of Columbus Ohio, a designer and manufacturer of retail display and warehousing support systems;
- 3) That the above-identified application for United States patent as well as U. S. Patent No. 6,302,282 both stem from application for United States Patent No. 09/058,402 and are concerned with a "Tri Strut" cantilever tilt shelving system;
- 4) That the aforesaid "Tri Strut" shelving system was introduced to industry in 1998;
- 5) That the "Tri Strut" shelving system which has been sold is fully described and claimed in the aforesaid application for United States patent and the aforesaid United States patent;
- 6) That the aforesaid K'EFFS, Inc. of Columbus, Ohio is an organization having five to six permanent employees and the tooling as well as paint line employed for production of the "Tri Strut" shelving system was designed and fabricated by the inventors named in the above-identified application for United States patent;
- 7) That the national retail chain, Sherwin Williams, utilizes the "Tri Strut" shelving system exclusively for the display and presentation of caulk and sealant material;
- 8) That the national retail chain, "DAP" exclusively utilizes the "Tri Strut" system for the display and presentation of its caulk and sealant products;
- 9) That the national retail organization, Tru Serve (Tru Value) utilizes the "Tri Strut" shelving system for displaying and presenting its caulk and sealant products;
- 10) That the national retailing organization, York Wallpaper utilizes the "Tri Strut" shelving system to display its wallpaper border products;

- 11) That annexed hereto and identified as Exhibits 1-6 are photographs which he himself took on April 15, 2004 within retail installations of the shelving system described and claimed in the above-identified application for United States patent and United States patent;
- 12) That the photographs accurately record the shelving system which he photographed;
- 13) That Exhibits 1 and 2 are photographs of the shelving system of the invention in use at a retail outlet of the Sherman Williams Company located at 7370 Sawmill Road, Columbus, Ohio 43235;
- 14) That Exhibit 1 illustrates the tilting and signage structure of the shelving system as well as the utilization of rod-formed D-shaped merchandise retaining loops as associated within forward receptor gaps;
- 15) That Exhibit 2 is a close-up photograph of the upper shelf of the shelving of Exhibit 1 showing the forward receptor gap thereof;
- 16) That Exhibit 3 is a photograph of shelving configured in accordance with the description and claims of the above-identified application and United States patent and located at the retail outlet identified as Roush Hardware having an address located at 373 West Bridge Street, Dublin, Ohio 43017;
- 17) That Exhibit 3 clearly illustrates the utilization of a forward receptor gap in association with D-shaped merchandise retainer and the photograph further shows the utilization of signage as described and claimed in the above-identified application for United States patent and United States patent;
- 18) That Exhibit 4 is a close-up of the shelving shown in Exhibit 3 revealing the structure of the forward receptor gap as claimed as well as portions of the claimed signage;
- 19) That Exhibit 5 is another close-up of the shelving structure of Exhibit 3 showing the signage support structure with a semi-circular coupler connected between a sign engaging surface assembly and forward wall-forming rods and the coupler is seen to be configured with a notch-shape and is retained by a flexible strap retainer;
- 20) That Exhibit 6 is a photograph taken by him within a Meijers Retail outlet located at 1675 Sawmill Road, Columbus, Ohio 43235 employing a shelf system as described and claimed in the above-identified application for United States patent and United States patent;
- 21) That the aforesaid utilization of the "Tri Strut" system by multiple national retailers and particularly as compared with the small size of the assignee reveals important commercial success as a consequence directly of the subject matter claimed in the above-identified application for United States patent and U. S. Patent No. 6,302,282;
- 22) That all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like, so made, are

punishable by fine, or imprisonment, or both, under § 1001 of Title 18, and that such willful false statements may jeopardize the validity of the application or any document resulting therefrom.

Further Declarant sayeth naught.

Date

5/3/04

Kenneth R. Gay
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